



U.S. Department
of Transportation
**Federal Aviation
Administration**

Advisory Circular

Subject:

VOLUNTARY DISCLOSURE
REPORTING PROGRAM

Date: 05/04/98

Initiated by: AFS-350

AC No: AC 00-58

Change:

1. PURPOSE.

a. This advisory circular (AC) provides information and guidance material that may be used by a certificate holder, an indirect air carrier, a foreign air carrier (regarding compliance with its FAA-approved security program only), or a production approval holder (PAH) operating under Title 14 of the Code of Federal Regulations (14 CFR) when voluntarily disclosing to the Federal Aviation Administration (FAA) apparent violations of those FAA regulations listed in paragraph 3. The procedures and practices outlined in this AC can be applied to the maintenance, flight operations, anti-drug and alcohol misuse prevention programs, and security functions of the certificate holder's organization, the security functions of indirect air carriers and foreign air carriers, and to the manufacturing functions of the production approval holder's organization. The procedures and practices outlined in this AC can not be applied to those persons who are required to report failures, malfunctions and defects under 14 CFR part 21.3 and do not make those reports in the time frame required by the regulation. With respect to foreign air carriers, apparent violations of FAA regulations requiring compliance with their FAA-approved security program only are covered by this program; references in this AC to foreign air carriers are to be interpreted in light of this fact.

b. Certificate holders, indirect air carriers, foreign air carriers, and PAHs are encouraged, but not required, to develop internal evaluation programs that continually monitor company policies and procedures and ensure that the highest level of safety and security compliance is maintained. They may voluntarily disclose apparent violations of 14 CFR covered by this program in accordance with the procedures in this AC even though an internal evaluation program has not been established. Guidance on internal evaluation programs is contained in advisory materials on the subject.

2. CANCELLATION. AC 120-56, Air Carrier Voluntary Disclosure Reporting Procedures, dated January 23, 1992, is canceled.

3. RELATED REGULATIONS. 14 CFR Parts 21, 107, 108, 109, 121, 125, 129, 133, 135, 137, 141, 142, 145, and 147.

4. BACKGROUND. Civil penalties under the FAA's enforcement program have always been considered a means to promote compliance with the FAA's regulations, not an end in themselves. In addition to the deterrence achieved by the appropriate use of civil penalties, the public interest is also served by positive incentives to promote and achieve compliance. Indeed, the FAA believes that aviation safety is well served by incentives for certificate holders, indirect air carriers, foreign air carriers (regarding their compliance with their FAA-approved security programs), and PAHs to identify and correct their own instances of noncompliance and to invest more resources in efforts to preclude their recurrence. The FAA's policy of forgoing civil penalty actions when one of these entities detects violations, promptly discloses the violations to the FAA, and takes prompt corrective action to ensure that the same or similar violations do not recur is designed to encourage compliance with the FAA's regulations, foster safe operating practices, and promote the development of internal evaluation programs.

5. KEY TERMS. The following key terms and phrases are defined to ensure a standard interpretation and understanding of the FAA's voluntary disclosure policy.

a. Evidence. For the purpose of voluntary disclosure, evidence generally should be in the form of written documentation or reports that support a certificate holder's, indirect air carrier's, foreign air carrier's, or PAH's analysis of the disclosed apparent violation and the resulting elements of the proposed comprehensive fix. Evidence generally comes from the following four elements:

- (1) Documents or manuals reviewed.
- (2) Equipment examined.
- (3) Activities observed.
- (4) Interview data.

b. Comprehensive Fix.

(1) A comprehensive fix is an action, or actions, proposed by the certificate holder, indirect air carrier, foreign air carrier, or PAH and accepted by the principal inspector (see definition in paragraph 5.d.) to preclude recurrence of the apparent violation that

has been voluntarily disclosed under this program. (When appropriate, a regulated entity may work with an airport consortium on a comprehensive fix. However, the appropriate regulated entity will remain responsible for implementation of the comprehensive fix.)

(2) A schedule of the dates and events encompassed by the comprehensive fix must be established and included in a letter of correction.

c. Satisfactory Fix. A satisfactory fix is a comprehensive fix in which all corrective measures have been completed on schedule and are satisfactory to the FAA.

d. Principal Inspector. Under the voluntary disclosure program, principal inspector refers to the appropriate security (domestic or foreign), maintenance, avionics, operations inspector, or other designated FAA official of the program office responsible for oversight of the area of noncompliance involved in the disclosure.

(1) The designated FAA official for voluntary disclosure concerning anti-drug and alcohol misuse prevention program violations is the Branch Manager, Compliance and Enforcement Branch, Drug Abatement Division, FAA Headquarters;

(2) The designated FAA officials for disclosures by Category X airports are the Federal Security Managers;

(3) The designated FAA officials for disclosures by Category 1-4 airports are the managers of the Civil Aviation Security Field Offices (CASFO) or the designated representative of the CASFO manager; and,

(4) The designated FAA officials for disclosures by indirect air carriers are the regional Dangerous Goods/Cargo Security (DG/CS) coordinators.

6. VOLUNTARY DISCLOSURE POLICY. The FAA believes that the open sharing of apparent violations and a cooperative as well as an advisory approach to solving problems will enhance and promote aviation safety. Certificate holders, indirect air carriers, foreign air carriers, and PAHs will receive a letter of correction in lieu of civil penalty action for covered instances of noncompliance that are voluntarily disclosed to the FAA in accordance with the procedures set forth in this AC. Once the letter of correction is issued, the case will be considered closed unless the agreed-upon comprehensive

fix is not satisfactorily completed by the appropriate entity.

a. In evaluating whether an apparent violation is covered by this policy, the FAA will ensure that the following five conditions are met:

(1) The certificate holder, indirect air carrier, foreign air carrier, or PAH has notified the FAA of the apparent violation immediately after detecting it and before the agency has learned of it by other means.

(2) The apparent violation was inadvertent.

(3) The apparent violation does not indicate a lack, or reasonable question, of qualification of the certificate holder or PAH.

(4) Immediate action, satisfactory to the FAA, was taken upon discovery to terminate the conduct that resulted in the apparent violation.

(5) The certificate holder, indirect air carrier, foreign air carrier, or PAH has developed or is developing a comprehensive fix and schedule of implementation satisfactory to the FAA. The comprehensive fix includes a follow-up self-audit to ensure that the action taken corrects the noncompliance. This self-audit is in addition to any audits conducted by the FAA.

b. Ordinarily, the FAA will not forgo legal enforcement action if the certificate holder, indirect air carrier, foreign air carrier, or PAH informs the FAA of the apparent violation during, or in anticipation of, an FAA investigation/inspection or in association with an accident or incident.

c. The procedures to be followed when applying the voluntary disclosure policy are further described in the following paragraphs.

7. NOTIFICATION TO THE FAA OF AN APPARENT VIOLATION. The Voluntary Disclosure policy applies only when notification of an apparent violation is made to the FAA by the certificate holder, indirect air carrier, foreign air carrier, or PAH immediately after the apparent violation has been discovered by that regulated entity, and before the FAA learns of the apparent violation by some other means. The form of notification may be oral, a written hard copy, or a written electronic copy. The FAA believes that it is important for the initial notification to be within 24 hours of the discovery of the apparent violation.

a. Notification by the certificate holder or the PAH. When a certificate holder, indirect air carrier, foreign air carrier, or PAH notifies the FAA of an apparent violation, contact must be made with, or directed to, the appropriate principal inspector. The certificate holder, indirect air carrier, foreign air carrier, or PAH should not delay notification for any reason, and should address, to the maximum extent possible, the following items with the principal inspector:

(1) A brief description of the apparent violation, including an estimate of the duration of time that it remained undetected, as well as how and when it was discovered.

(2) Verification that noncompliance ceased after it was identified.

(3) A brief description of the immediate action taken after the apparent violation was identified, the immediate action taken to terminate the conduct that resulted in the apparent violation, and the person responsible for taking the immediate action.

(4) Verification that an evaluation is underway to determine if there are any systemic problems and a description of the corrective steps necessary to prevent the apparent violation from recurring.

(5) Identification of the person responsible for preparing the comprehensive fix.

(6) Acknowledgment that a detailed written report will be provided to the principal inspector within 10 working days.

b. Disclosure to the FAA in the context of airport consortia. Normally when the FAA becomes aware of an apparent violation by a certificate holder, indirect air carrier, foreign air carrier, or PAH before that entity notifies the FAA of its apparent violation, the Voluntary Disclosure policy will not apply.

(1) Several airports, however, have created consortia to conduct airport security vulnerability assessments. Membership in each consortium is voluntary and usually includes air carrier and airport certificate holders as well as an FAA representative. Consortium membership also may include persons and entities that do not hold certificates, including, but not limited to, law enforcement personnel, screening company representatives, and airport tenants.

The purpose of an airport consortium is to conduct formal airport vulnerability assessments in order to identify actual or potential security weaknesses, and to openly discuss assessment findings with a view toward collaborating on security improvements. Airport consortia also are encouraged to engage in informal ongoing assessments of airport vulnerabilities. During consortium assessment activities, an apparent violation by a certificate holder may be discovered by someone other than the certificate holder, indirect air carrier, or foreign air carrier and brought forward for discussion by the consortium members. Because an FAA representative is a member of the consortium, the FAA may become aware of an apparent violation during this discussion, at the same time, or before, the certificate holder, indirect air carrier, or foreign air carrier, becomes aware of the apparent violation.

(2) Notwithstanding the requirement that an appropriate regulated entity notify the FAA of its apparent violation before the agency has learned of it by other means, (1) if the FAA initially becomes aware of the entity's apparent security violation before or at the same time the responsible entity does, because of information disclosed by a person or entity other than the certificate holder, indirect air carrier, or foreign air carrier during an airport consortium activity or meeting, or (2) if the FAA becomes aware of an apparent security violation at the same time the responsible regulated entity does during consortia assessments that involve both FAA personnel and a certificate holder, indirect air carrier or foreign air carrier, the apparent violation will be covered by this policy provided the other elements of paragraphs 6(a) and (b) are met. Such disclosure will be deemed notification to the FAA of the apparent violation, instead of the initial notification outlined in paragraph 7(a). The appropriate FAA principal inspector will send a written acknowledgment of the notification to the pertinent regulated entity and open an enforcement investigative report (EIR) in accordance with procedures outlined in paragraph 8. The regulated entity will have 10 work days from the date of the written acknowledgment of the apparent violation to follow up with a written report to the principal inspector in accordance with the guidance in paragraph 9. If the regulated entity does not agree that there has been a violation, or otherwise fails to provide information identified in paragraph 9, the FAA thereafter will proceed with its investigation and initiate enforcement action, if appropriate, against the entity. Except when the FAA becomes aware of an apparent violation, at the same time the regulated entity does during consortia assessments that involve both FAA personnel, and the regulated entity, or, at the same time or before the regulated entity does because of information disclosed by another entity during a

consortium activity or meeting, a regulated entity self-reporting an apparent violation must follow the procedures outlined in paragraph 7(a).

8. FAA RESPONSE TO CERTIFICATE HOLDER, INDIRECT AIR CARRIER, FOREIGN AIR CARRIER, OR PAH NOTIFICATION. The principal inspector responds with a written acknowledgment of the entity's initial notification. This acknowledgment includes the request for a written report, and is sent in lieu of a letter of investigation provided the written report is completed in accordance with the voluntary disclosure reporting procedures set forth in this AC and Appendix 1. The principal inspector will open an enforcement investigative report that will be closed out with a letter of correction, following satisfactory development of a comprehensive fix and schedule of implementation agreed upon by the FAA and the entity.

9. WRITTEN REPORT OF CERTIFICATE HOLDER, INDIRECT AIR CARRIER, FOREIGN AIR CARRIER, OR PAH'S WRITTEN REPORT. The written report should be provided to the principal inspector by the entity within 10 working days after the initial notification was made. A sample format for this report is provided as appendix 1. In summary, the written report should include the following information:

a. A list of the specific FAA regulations that may have been violated.

b. A description of the apparent violation, including the duration of time it remained undetected, as well as how and when it was detected.

c. A description of the immediate action taken to terminate the conduct that resulted in the apparent violation, including when it was taken, and who was responsible for taking the action.

d. An explanation that shows the apparent violation was inadvertent.

e. Evidence that demonstrates the seriousness of the apparent violation and the regulated entity's analysis of that evidence.

f. A detailed description of the proposed comprehensive fix, outlining the planned corrective steps, the responsibilities for implementing those corrective steps, and a time schedule for completion of the fix. If a proposed comprehensive fix is not fully developed within 10 working days, the pertinent regulated entity should provide at least an overview of its comprehensive fix plans.

In any event, a detailed description of the comprehensive fix should be provided to the principal inspector within 30 calendar days after the certificate holder or PAH initially notified the principal inspector of the apparent violation.

g. Identification of the company official responsible for monitoring the implementation and completion of the comprehensive fix.

10. REVIEW BY THE FAA. The FAA works with the certificate holder, indirect air carrier, foreign air carrier, or PAH to ensure that the comprehensive fix is acceptable to the FAA.

a. If the principal inspector determines that the proposed fix is acceptable, he/she will prepare a letter of correction that includes the date by which the comprehensive fix will be implemented and completed.

b. Following issuance of the letter of correction, the case is closed but remains subject to reopening in the event that the agreed-upon actions covered in the comprehensive fix are not completed to the satisfaction of the FAA.

c. The principal inspector has the authority to close the case. Consultation with regional specialists, legal counsel, or other FAA personnel may be accomplished when deemed appropriate by the principal inspector.

11. IMPLEMENTATION OF A COMPREHENSIVE FIX.

a. During the implementation period, the FAA and the pertinent regulated entity should continue to work together. The FAA may advise and assist the entity in correcting any identified systemic problems. Changes can be made to the corrective action(s) outlined in the comprehensive fix when the need is identified and when the FAA concurs with the change. When a change to a comprehensive fix has been agreed upon, the principal inspector, or the inspector assigned to the case at the direction of the principal inspector, will prepare an amended letter of correction that reflects this change.

b. The FAA monitors the implementation of the corrective steps. Throughout the implementation period, the FAA assesses the pertinent regulated entity's corrective efforts and top management's awareness of these efforts. If, during this period, the FAA determines that the steps taken by the entity are not those documented in the comprehensive fix, the letter of correction may be rescinded, the

investigative report may be reopened, and appropriate legal enforcement action may be initiated.

c. Following completion of the agreed-upon corrective action(s), the certificate holder, indirect air carrier, foreign air carrier, or PAH conducts a self-audit to ensure that the action taken remedies the problem that gave rise to the apparent violation.

d. At the conclusion of the implementation period, the principal inspector makes a final assessment. If all elements of the comprehensive fix have been adequately accomplished, the principal inspector finds the fix satisfactory. A statement of follow-up investigation, confirming that the comprehensive fix was satisfactorily implemented and completed, shall be prepared to complete the FAA's investigative package.

e. If the same or similar violations are discovered subsequent to the FAA's completion of an investigative package, the FAA does not reopen the case unless it determines that the pertinent regulated entity failed to comply with all the elements of the comprehensive fix agreed upon by the FAA and the entity.

12. DISPUTE RESOLUTION. When disputes occur regarding the acceptance of a proposed comprehensive fix, or a modification thereto before the fix is considered satisfactory, the principal inspector and the pertinent regulated entity may request that the issue be resolved at the next level of management within the FAA. This procedure will provide for an independent assessment of the areas in disagreement.

13. SEPARATE ACTIONS AGAINST AIRMEN OR OTHER INDIVIDUAL AGENTS.

a. The voluntary disclosure policy applies to individual airmen or other agents of an employing certificate holder, indirect air carrier, foreign air carrier, or PAH when:

(1) The apparent violation involves a deficiency of the employing entity's practices or procedures that causes the employing certificate holder, indirect air carrier, foreign air carrier, or PAH to be in violation of a covered violation of an FAA regulation;

(2) The airman or other agent of the employing entity, while acting on behalf of the employing entity, inadvertently violates the FAA's regulations as a direct result of a deficiency of the employing entity that causes the employing entity to be in violation of the regulations. (The voluntary disclosure policy does

not apply to the airman or other agent when his/her apparent violation is the result of actions unrelated to the employing entity's deficiency);

(3) The airman or other agent immediately makes the report of his/her apparent violation to the employing entity; and

(4) The employing certificate holder, indirect air carrier, foreign air carrier, or PAH immediately notifies the FAA of both the airman or other agent's apparent violation and the apparent deficiency in its practice or procedures.

b. When all the above conditions are met, a separate EIR is opened for the individual and closed with an administrative action.

c. If all the above conditions are not met, the principal inspector will review all facts associated with the case and determine what action is appropriate for individual airmen or other agents of the employing entity.

d. This provision does not apply to matters concerning qualifications to hold an airman certificate.

14. APPLICABILITY OF THE FREEDOM OF INFORMATION ACT (FOIA) TO SELF-DISCLOSURE RECORDS. Records submitted to the FAA for review pursuant to this voluntary self-disclosure program will be protected to the extent allowed by law.

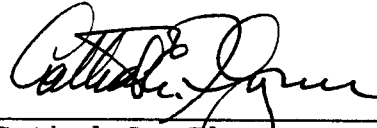
15. REPEATED VIOLATIONS. If a repeated violation occurs, notwithstanding the fact that a comprehensive fix was satisfactorily completed and followed, the procedures outlined in this AC may apply to the disclosure of the repeated violation. The determination whether a repeated violation will be covered under this policy will be made by the FAA on a case-by-case basis, upon consideration of the facts and circumstances surrounding the repeated violation.

16. CONCLUSION. Development of internal evaluation programs should help to ensure that any apparent violations are promptly identified, corrected, and reported to the FAA. While not required, the FAA strongly encourages certificate holders, indirect air carriers, foreign air carriers, and PAH's to make internal evaluation programs an integral part of their everyday management process so that the full benefits of voluntary disclosure can be realized. Aviation safety is served by programs that allow certificate holders, indirect air carriers, foreign air carriers, and PAH's to identify and correct

their own instances of noncompliance and invest more resources in efforts to preclude their recurrence.



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APPENDIX 1. SAMPLE FORMAT TO BE FOLLOWED WHEN SUBMITTING
THE WRITTEN REPORT

The following sample is only a suggested format to be followed when preparing the written report that will be submitted to the FAA. While a certificate holder, indirect air carrier, foreign air carrier, or PAH should include at least all the elements specified below, the structure of the written report can be modified by the regulated entity to fit its particular needs.

I. GENERAL.

- A. Date.
- B. Certificate type or equivalent.
- C. Pertinent regulated entity number or equivalent.
- D. Company name.
- E. Company address.
- F. Company official filing report.
 - 1. Name.
 - 2. Position.
 - 3. Telephone number.

II. DESCRIPTION OF APPARENT VIOLATION.

- A. Applicable 14 CFR.
- B. Date apparent violation was discovered.
- C. Location of discovery.
- D. Company official who discovered the apparent violation.
 - 1. Name.
 - 2. Position.

3. Telephone number.
- E. Date and time of initial notification to the FAA.
- F. Name of FAA official notified (principal inspector).
- G. Company official making notification.
 1. Name.
 2. Position.
 3. Telephone number.
- H. Duration of time apparent violation remained undetected.
 1. Hours.
 2. Cycles.
 3. Days.

III. SUMMARY OF APPARENT VIOLATION. (The summary should be a brief statement that describes the nature of the apparent violation and identifies the specific aircraft, engines, appliances, facilities, checkpoint, gate, cargo, and/or individuals associated with the apparent violation.)

IV. IMMEDIATE ACTION.

- A. When immediate action was taken.
- B. Description of immediate action. (This description should outline the immediate steps that were taken to cease the violative action.)
- C. Company official responsible for immediate action.
 1. Name.
 2. Position.
 3. Telephone number.

V. ANALYSIS.

A. Summary of evidence. (This summary should describe the scope of the apparent violation and explain how it was detected. In addition, conclusions reached regarding possible or probable systemic deficiencies, i.e., who, what, when, why, and how the noncompliance occurred, should be described.)

B. Reasons why the apparent violation was inadvertent.

C. Supporting documentation. (The evidence associated with the apparent violation should be attached. This evidence should include a statement regarding how the certificate holder, indirect air carrier, foreign air carrier, or PAH determined the extent of the apparent violation.)

VI. COMPREHENSIVE FIX PROPOSAL. The proposed long-term corrective steps to be taken by the certificate holder, indirect air carrier, foreign air carrier, or PAH to preclude recurrence of the apparent violation should be listed in this section. Each corrective step should identify the individual or department responsible for implementing and completing the corrective step as well as the time allotted for completion of each corrective step. Examples of types of questions or issues that a comprehensive fix proposal should address are as follows:

A. Whether the apparent violation involves equipment, facilities, or individuals beyond those addressed in the initial notification and for which immediate action was taken.

B. Whether procedural or organizational changes are necessary.

C. How it will be determined whether any procedural or organizational changes are effective.

D. What procedures will be developed to ensure that the affected area is periodically reviewed in the future so that concerns can be identified before a violation occurs?

E. Who will be responsible for performing periodic reviews?

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F. To whom in the certificate holder's, indirect air carrier's, foreign air carrier's, or PAH's organization will the results of those periodic reviews be reported, and how will they be documented?

VII. RESPONSIBILITY FOR MONITORING THE IMPLEMENTATION OF THE COMPREHENSIVE FIX.

- A. Name.
- B. Position.
- C. Telephone number.
- D. Signature.

VIII. FAA ACCEPTANCE (TO BE COMPLETED BY THE FAA).

- A. Name.
- B. Position (principal inspector).
- C. Date.
- D. Office.
- E. Signature.